

ONTARIO HUMAN RIGHTS COMMISSION

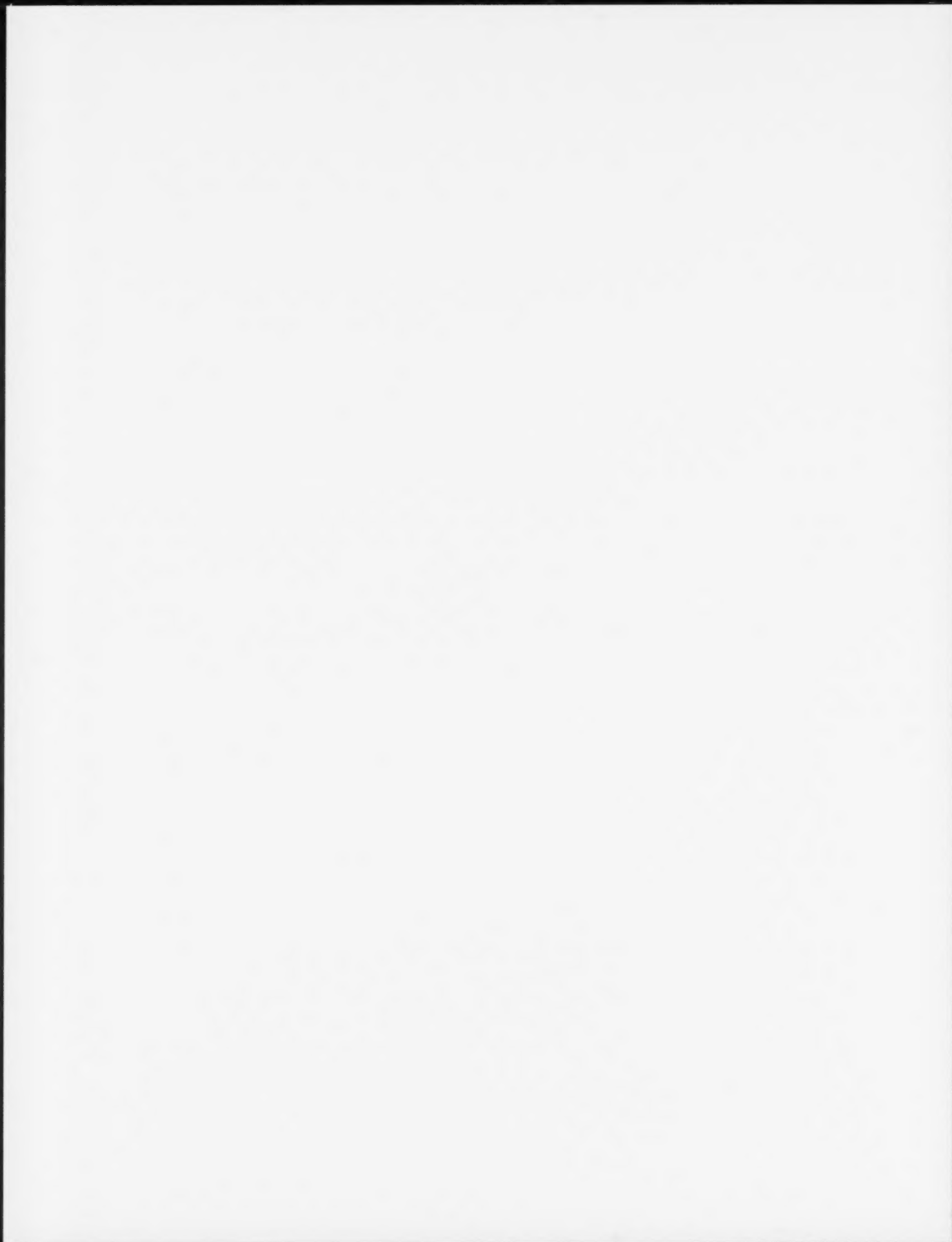
Rights, Partners, Action!



2012-2013 ANNUAL REPORT



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne





June 30, 2013

The Honourable Dave Levac
Speaker of the Legislative Assembly of Ontario
Room 180
Main Legislative Building
Queen's Park
Toronto, ON
M7A 1A2

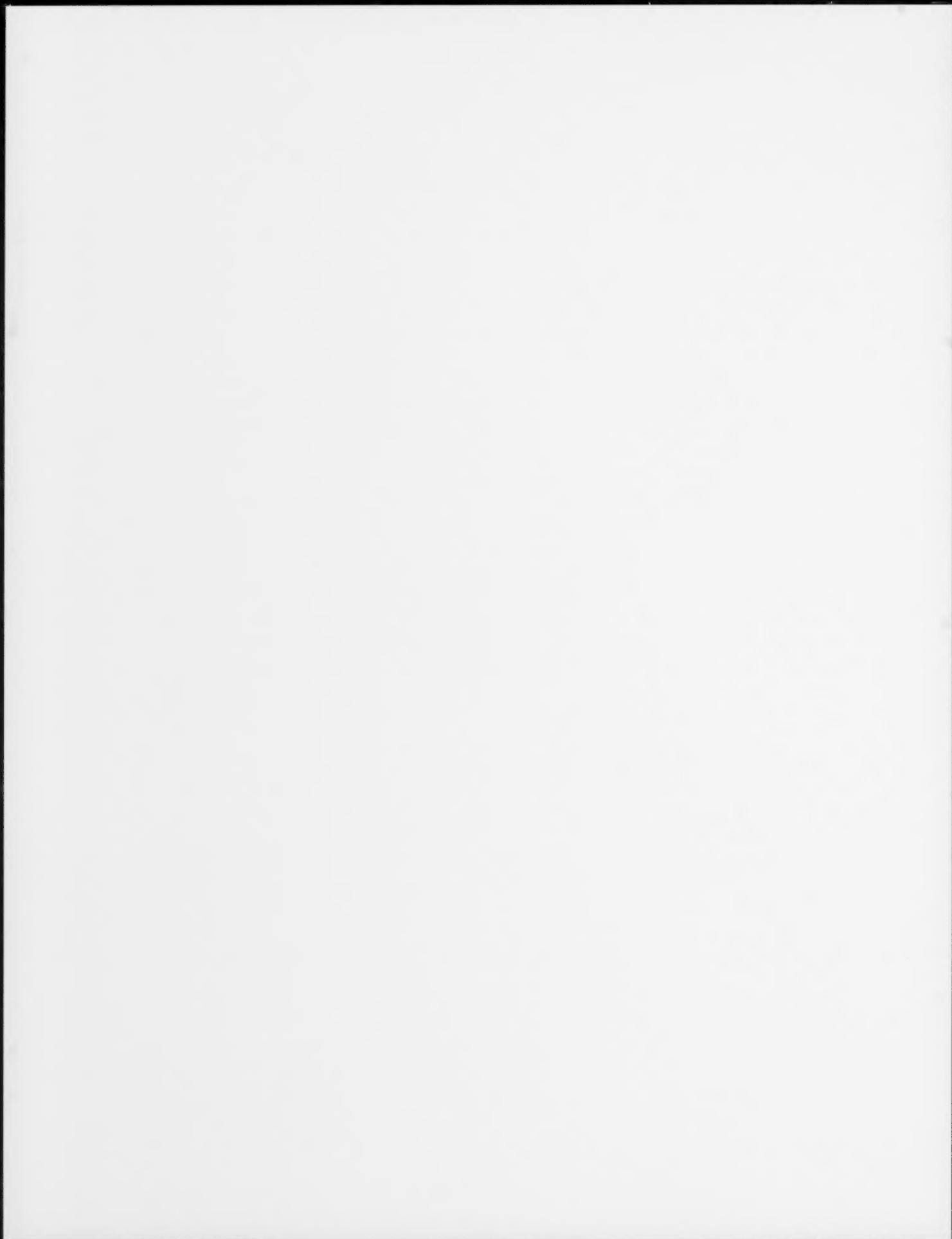
Dear Mr. Speaker:

Under Section 31.6 (2) of the *Ontario Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30th of each year, to be tabled in the Legislature.

In this regard, I am pleased to provide you with the Commission's Annual Report of its activities from April 1, 2012 to March 31, 2013.

Yours sincerely,

Barbara Hall, B.A., LL.B., Ph.D (hon.)
Chief Commissioner



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Meet our Commissioners



Barbara Hall – Appointed November 2005

Barbara Hall, Chief Commissioner of the Ontario Human Rights Commission and former Mayor of Toronto, has served for more than 40 years as a community worker, lawyer, municipal politician and champion of a grassroots approach to community-building.



Ruth Goba – Toronto – Appointed October 2006

Ruth Goba is a lawyer who has worked domestically and internationally on poverty and women's equality rights issues. From 2007 to 2009, she was the Executive Director of the Centre for Equality Rights in Accommodation (CERA), a human rights non-government organization (NGO) that promotes housing and other economic and social rights. In private practice, Ruth's work focused primarily on issues of racial, gender and disability discrimination in education and employment.



Raja Khouri – Toronto – Appointed September 2006

Raja G. Khouri is managing consultant at The Knowledge Centre and specializes in organizational development and capacity building in the non-profit sector. Raja is co-founder of the Canadian Arab-Jewish Leadership Dialogue Group. He served on Ontario's Hate Crimes Community Working Group and the Equity and Inclusive Education Strategy Roundtable.



Fernand Lalonde – Gloucester – Appointed May 2005

Fernand Lalonde retired from the federal public service in 2001 after serving in many roles, including General Secretary of the National Joint Council, Executive Director of Appeals and Investigations for the Public Service Commission of Canada, and Director of Personnel Services, Parks Canada.



Julie Lee – London – Appointed September 2009

Julie Lee is a lawyer, practicing family and criminal law in St. Thomas, Ontario. Prior to her legal education she worked in the anti-violence movement as an educator, administrator and advocate. Julie's advocacy has also been directed at achieving equity and dignity for same-sex families.



Paul Lefebvre – Sudbury – Appointed September 2009

Paul Lefebvre is a partner at Lefebvre Lawyers where he practices corporate and tax law and is also a business owner. He is the former President of the Sudbury District Law Association, and former Board Chair of the Centre de Santé Communautaire du Grand Sudbury. Paul's term expired on September 7, 2012.



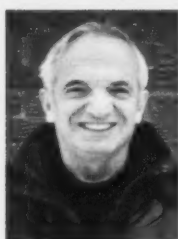
Larry McDermott – Lanark – Appointed September 2009

A member of Shabot Obaadiwan First Nation, Larry McDermott served as an Ontario municipal politician for 28 years including as the first national rural chair of the Federation of Canadian Municipalities. He is currently Executive Director of Plenty, a non-profit organization devoted to environmental protection and healthy communities.



Errol Mendes – Ottawa – Appointed September 2009

Errol Mendes is a lawyer, author, professor and has been an advisor to corporations, governments, civil society groups and the United Nations. His teaching, research and consulting interests include public and private sector governance, conflict resolution, constitutional law, international law and human rights law and policy.



Mark Nagler – Hamilton – Appointed September 2009

Mark Nagler, Professor Emeritus, taught sociology, race and ethnic relations, native studies and disability studies for 29 years at the University of Waterloo. A past president of ARCH Disability Law, he has served on many volunteer boards and has advised the federal and provincial governments on a variety of aspects related to disability issues.



Fiona Sampson – Toronto – Appointed September 2009

Fiona Sampson is the Human Rights Director at Canadian Lawyers Abroad (CLA), where she is also the Director of the African and Canadian Women's Human Rights Project. Fiona has worked as a legal consultant with, among others, the Ontario Native Council on Justice, the DisAbled Women's Network (DAWN) of Canada, Education Wife Assault, and the Ethiopian Muslim Relief and Development Association.



Bhagat Taggar – Scarborough – Appointed May 2005

Bhagat Taggar is a Chartered (UK) and Professional (Ontario) Engineer with diverse international and Canadian community experience. He is the past chair of the Employment Insurance Board for the Ontario regional division (Scarborough) and a recipient of the Queen's Golden Jubilee Medal for community service.



Maggie Wente – Toronto – Appointed October 2006

Maggie Wente, who is Anishnabe and a member of Serpent River First Nation, is a lawyer with Olthuis Kleer Townshend LLP, representing First Nations governments, individuals and organizations. She has also worked with the Ontario Federation of Indian Friendship Centres and volunteered at Downtown Legal Services, a community legal clinic. Currently she is President of Aboriginal Legal Services of Toronto.

A message from the Chief Commissioner



One of the privileges of being Chief Commissioner of the Ontario Human Rights Commission (the OHRC) is the opportunity to be out in communities across our province, speaking with people and learning about their experiences with human rights.

Fifty years after Ontario's *Human Rights Code* (the Code) was enacted there are people who believe that human rights violations are a thing of the past. But everyday I am reminded that is simply not the case. Discrimination, and the barriers created by that discrimination, continue to exact a terrible toll on the lives of many Ontarians – especially the most vulnerable.

That is certainly the experience of a young man stopped by the police for "driving while Black." And of a woman who was fired because she was pregnant. And of the man who could not serve on a jury because his kirpan – a small ceremonial dagger that is a symbol of his faith – was not allowed in the courtroom. And of the teenaged girls with mental health issues who can't get a safe place to live because of arbitrary zoning bylaws.

This report sets out many of the ways the OHRC is working to eliminate these barriers. To meet our mandate of creating systemic change to protect and improve human rights, we aim to set standards, show the way forward and to monitor the results.

Those standards are rooted in the Code and clarified in our policies and through strategic legal work. Public education and communications try to get the word out on how to make lasting and effective change. Long term partnerships help us see what works, and what needs improvement in the way we approach some of the complex problems of discrimination.

Our work often starts with conversations – to eliminate barriers we need to understand them. The biggest public consultation in our history led, this past year, to *Minds that matter*, our consultation report on human rights, mental health and addictions. What we heard will inform our forthcoming policy on mental health and bolster our continuing involvement in mental health-based human rights cases. We have lately expanded our work to look at methadone clinics and discrimination against people with addictions.

Our *Policy on competing human rights* is changing the way organizations deal with some rights-based issues – and we saw this tool for resolving conflicts reflected in two important decisions by the Supreme Court of Canada. Many Ontarians experience conflicting rights every day – in schools, workplaces, in services and in the neighbourhoods where they live. How those conflicts are addressed can lead to greater tensions or to greater awareness and understanding. We've been told that our framework can help resolve some of the thornier problems.

We know that changing organizations to embrace human rights approaches can be tough – but that successful efforts have a lasting impact. We're working to help police services to understand how and why

they must eliminate racial profiling, educate their staff about human rights in policing, and to earn respect in the communities they serve. We promote human rights-based data collection as a good way to identify issues in policing, and have taken that position in several cases in the courts and tribunals.

Human rights in housing continued to be a focus, as we wrapped up public interest inquiries into rental housing licensing, worked with municipalities on zoning issues and took legal action both at the Human Rights Tribunal of Ontario and the Ontario Municipal Board.

We reviewed and reported on government policies affecting housing and land use planning, accessible voting options, and proposed changes to the Building Code.

To further our education efforts, last year we expanded our reach in social media, produced video vignettes featuring some of Ontario's human rights pioneers, and worked with the Accessibility Directorate of Ontario to produce *Working Together*. This video connects the *Accessibility for Ontarians with Disabilities Act* and the *Human Rights Code*, and is now required viewing for all Ontario Public Service employees. It can be a helpful tool for every Ontario employer.

2012 also marked the release of the *Report of the Ontario Human Rights Review* by Andrew Pinto. That review confirmed many of our own findings and restated the need for the OHRC, the Human Rights Tribunal of Ontario (HRTO) and the Human Rights Legal Support Centre to better coordinate human rights works across the province. The report coincided with our latest strategic planning and has helped to inform that process. One clear message has been the need to better clarify what each partner in the human rights system does so that people who need the system find the best route to advice and solutions.

The Pinto report also emphasized the needs of employers. We know that most human rights complaints come from the workplace. When employees understand their rights and employers know their responsibilities, the parties can work together to resolve issues. As we create new policies and revise old ones we are working to improve the guidance we give to employers so that they not only understand the standards they are expected to meet but also have best practice examples and useful guidelines to draw on. We continue to seek ways to connect with employers, especially small and mid-size companies. We will expand our ongoing partnership with the Human Resources Professionals Association and other groups that help us connect with employers across Ontario.

The *Human Rights Review* also drew attention to what we have known – and struggled with – for many years: the plight of First Nations and Aboriginal Peoples in Ontario. This issue, along with racism, is one of the most complex, enduring and sadly corrosive forms of discrimination in Ontario. We are drawing on the spirit of the tremendous work done by our colleagues and friends at the Truth and Reconciliation Commission to help guide us. We know that we must work harder to build relationships and create real trust for our work in First Nations communities. We have found that every time we concentrate on a particular aspect of discrimination – for example, in the past year on mental health, housing, creed, and education – we find evidence of how First Nations and Aboriginal Peoples are directly affected. First Nations and Aboriginal issues are a priority for the OHRC.

Although we have not made all the progress that is needed, I am very proud of our accomplishments in 2012-2013. They reflect the vision, support and plain good work of Commissioners and staff. Individually, we share a commitment to human rights. Together, we are taking action that can have a positive effect on the lives of everyone in Ontario.

We also know that none of this would be possible without our many partners. When we needed to survey specific groups of people, they sent surveys to their networks and arranged for us to meet with their clients. When we wanted to speak with people in closed locations like psychiatric facilities, they unlocked these opportunities. When we needed guidance on areas like creed, gender identity or zoning, our partners shared their expertise. When we wanted to take training on mental health and competing human rights on the road, our partners opened their doors to us.

That is why this year's report is called "Rights, partners, action." No matter what our policies say or our legal work accomplishes or who our education efforts reach, we depend on our partners to make change – to find the barriers, eliminate them and build human rights into their work. I am very grateful to each of you who has supported us in the past year and I look forward to our continuing work together in the future.



Barbara Hall
Chief Commissioner

Capturing past, present and future: Living Rights Project update

Over the past year, we have added dozens of submissions to the Living Rights Project. This "virtual living library" includes written submissions, poems, many videos and even a painting, depicting different perspectives on human rights in Ontario.



As part of the celebrations for the 50th anniversary of Ontario's *Human Rights Code*, we invited human rights leaders to be interviewed on video. We're still editing them and gradually adding them to the library, but there are already many powerful stories available online. For example, you can hear the Hon. Jean Augustine talk about the harsh realities of being a Black woman in Toronto before the *Code*. You can listen to human rights legend Alan Borovoy talk about the unusual tactics he used to shame people into respecting human rights in the early days of the OHRC. And Cheri DiNovo talks about her work to bring in Toby's Law, which in 2012 added gender identity and gender expression to the *Human Rights Code*.

The Living Rights Project also steps beyond the past and includes many stories of today's human rights issues, and even has a section where human rights leaders offer advice to the next generation. The quotations included throughout this report are just a few examples of the stories that await on www.ohrc.on.ca.

Competing human rights – new guidance for everyday challenges



Working through a competing rights case study at Ontario Police College, Aylmer.

In April 2012, the OHRC launched its *Policy on competing human rights*. This policy outlines steps that sectors, organizations and individuals can take to address everyday situations of competing rights and help to avoid the need for legal action. The policy may also give guidance to the HRTO and the courts to address cases where litigation cannot be avoided.

We are seeing many cases where rights protected by the *Human Rights Code* (the *Code*) or the *Charter of Rights* conflict. As our society changes, tensions can appear. Old ways brush up against new ones. Thankfully, more people are aware of their rights and are willing to protect and exercise those rights. But how do we do the balancing act?

The OHRC's *Policy on competing human rights* offers a way forward. The starting point is the understanding, reinforced by courts and tribunals, that no right automatically trumps another. Context is critical. Are these real rights? What are the limits? Will adjusting the limits end the conflict? Is the impact substantial or trivial? There are many questions to ask, but the answers can guide us towards effective solutions where everybody's rights are respected as much as possible.

At the heart of all of this analysis is something just as important as the legal language – respect. Recognizing differences and finding common ground are the best routes to resolving conflicts that will continue to happen.

In 2012, the media was full of stories about a Toronto woman who asked for a "businessman's" haircut and was told the barbers could not serve her because of their religion. This case went to the HRTO where the parties reached a settlement after, as the owner of the shop said, "we got together and we had a good talk."

The Supreme Court of Canada made another decision about rights in conflict in the *Whatcott* case. This case involved rights to religious freedom and freedom of expression competing with the rights of people to be free from discrimination and harassment because of sexual orientation (see more details below).

In human rights cases, there isn't a "one size fits all" solution. When rights conflict, resolution may come through a process of respectful and open-minded dialogue. The OHRC's new policy is a tool to help get the conversation started.

We thank our launch partners

With the help of several partners, we presented sessions on the new policy across Ontario. We thank the following organizations that worked with us:

- City of Ottawa
- Multicultural Council of Windsor and Essex County
- York University, Toronto
- Thunder Bay Multicultural Centre

Creed, trial rights: *R. v. N.S.*, 2012 SCC 72

The OHRC intervened in a case involving a Muslim woman who was asking the Supreme Court of Canada to confirm her right to wear a niqab (face veil) while testifying against two family members accused of sexually assaulting her as a child. The case engaged competing religious and gender equality rights on the one hand, and the right to make full answer and defence in a criminal trial on the other. The OHRC urged the Court to adopt a clear process for reconciling rights based on earlier case law and the new OHRC policy.

In its December 2012 majority decision, the Court set out a framework to be applied on a case-by-case basis. Applying this framework involves answering four questions:

1. Would requiring the witness to remove the niqab while testifying interfere with her religious freedom?
2. Would permitting the witness to wear the niqab while testifying create a serious risk to trial fairness?
3. Is there a way to accommodate both rights and avoid the conflict between them?
4. If no accommodation is possible, do the salutary effects of requiring the witness to remove the niqab outweigh the deleterious effects of doing so?

The Court's framework is consistent with the OHRC's *Policy on competing human rights*, which emphasizes the importance of considering competing rights on a case-by-case basis and calls for:

1. Evaluating each set of apparently competing rights
2. Searching for measures to allow the enjoyment of each set of rights
3. If this is not possible, making a decision that considers the impact on each set of rights.

Religion, expression, sexual orientation: *Saskatchewan (Human Rights Commission) v. Whatcott*, 2013 SCC 11

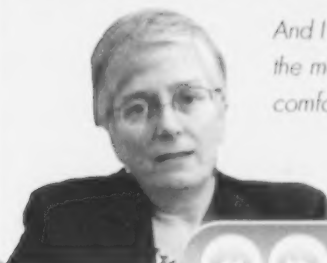
The OHRC also intervened in this case at the Supreme Court of Canada, which involved balancing the right to freedom of expression and religion with equality rights. This case began at the Saskatchewan Human Rights Tribunal, which decided flyers Mr. Whatcott produced targeting gays and lesbians were hate speech and discriminatory.

The Supreme Court recognized that all rights are subject to reasonable limitations and that context is important when balancing competing rights. The decision also reinforced that there is no "hierarchy" of human rights grounds. The Court rejected a lower court's finding that there should be a different analysis or threshold for hate speech involving sexual behaviours linked to sexual orientation as compared to hate speech aimed at race or religion.

In its unanimous decision, the Court found that the section of the Saskatchewan *Human Rights Code* that prohibits hate speech is constitutional, as long as it is only applied to expression of an unusual and extreme nature. This filters out expression which, while repugnant and offensive, does not incite the level of hatred that risks causing discrimination or other harmful effects. Two of Mr. Whatcott's flyers were found to promote hatred based on sexual orientation, while two others were found not to meet the test.

The OHRC was pleased to see our approach to reconciling rights adopted in the decision. The Ontario Code does not have a hate speech provision like Saskatchewan's. However, many of the points made by the Court apply to other types of competing rights situations.

So you know, one of my more surprising sub-specialties is I have done a lot of religious freedom cases. And I have come to have a deep regard and a deep respect for people who live their lives by religious or spiritual tenets, even when I don't agree with them. And some of them actually live their lives by religious tenets that would probably condemn me for living as a lesbian...



And I think that kind of bridging between worlds is vital. It's profound. It's probably the most important thing we can do in this time because religion is both a great comfort to people and a great divider of people.

— Susan Ursel, Partner, Ursel Phillips Fellows Hopkinson LLP

Gender identity and gender expression – something to celebrate in 2012



Something to celebrate at Toronto's Pride Parade in June 2012: 50 years for the *Human Rights Code*, 25 years for the Code ground of sexual orientation, and the brand new Code grounds of gender identity and gender expression! With MPP Cheri DiNovo, left, and Barbara Hall, centre.

On June 15, 2012, the Government of Ontario enacted a major change in the *Human Rights Code*, when it added gender identity and gender expression as Code grounds. The government acknowledged

the need to include explicit language about gender identity and expression, to better protect people who are often vulnerable to discrimination in Ontario.

Since 1999, the OHRC has recommended that gender identity be listed as a separate ground under the Code, to provide greater clarity that transgender people are equally protected under the law. In the past, gender identity was hidden in the human rights system under the ground of sex. Many housing and service providers, employers, communities and even government regulations routinely discriminated against people based on their gender identity.

But we were just one voice – this change reflects the tireless efforts of community advocates, organizations like the Trans Lobby Group, and elected officials from all political parties.

Adding the new Code grounds is important, but much work must still be done to make these rights a lived reality. The OHRC is currently consulting with the transgender community and working on an updated policy on gender identity and gender expression, which will be released in the coming year.

Changing the landscape – the XY decision

In April 2012, a significant decision from the HRTO in *XY v. Ministry of Government and Consumer Services* reinforced the human rights of transgender persons. The OHRC intervened in this case as part of its ongoing commitment to seek systemic solutions to eliminate discrimination based on gender identity.

The decision found that legislation requiring a person to have “transsexual surgery” before they can change the sex designation on their birth registration is discriminatory. It said that requiring surgery adds to the disadvantage and stigma experienced by members of this community, and reinforces the stereotype that transgender persons must have surgery to live in their felt gender. The HRTO also found that the goals of the *Vital Statistics Act* (VSA) would not be harmed by removing this requirement.

This decision confirms the OHRC’s position that gender identity should be recognized based on a person’s lived identity, and not depend on any surgical procedures.

The HRTO decision required the Ontario Ministry of Government and Consumer Services to:

- ◆ Stop requiring transgender persons to have “transsexual surgery” to change the sex designation on their birth registrations
- ◆ Revise the criteria for this change, within 180 days of the date of the decision, to remove the discriminatory effect
- ◆ Take reasonable steps to publicize these changes within the trans community within a further 30 days.

The HRTO left it to the Ministry of Government and Consumer Services to determine an appropriate alternative process for sex designation changes under the VSA. But it did cite the process currently used by the Ministry of Transportation for driver’s licences – which is based on a settlement the OHRC was involved with in 2005.

If a landlord is denying you a rental because you’re a trans person, it isn’t explicitly clear to them that you being a trans person is different from you just being a woman or a man. They understand the difference. They understand it I should say explicitly. They understand the difference that you’re not just like every other woman they’ve ever met or just like every other man, that there is a difference there.

So there should be a difference in the legislation so that you are protected when you are met by that landlord who refuses to rent you a space... when that employer refuses to hire you. They see you as somebody distinctively different. And in a sense, you are. That’s why the language needs to be explicit, to counter those instances of prejudice and abuse.



– Cheri DiNovo, MPP

The next step: changing the rules

To revise the requirements, the Ministry of Government Services (MGS) consulted with several organizations with expertise in gender identity issues and human rights. In July 2012, we added our comments to the consultation.

We agreed that adopting the Ministry of Transportation's criteria for changing the sex designation on a driver's licence, which requires a letter from a licensed physician, would be a better way to proceed. However, we also suggested that a physician's letter should not be a necessary requirement. As society's awareness and understanding of gender identity develops, we argued that people should be recognized based on their lived and internally-felt gender identity.

We recommended that MGS consider other criteria that are more respectful, less intrusive and less medicalized than a doctor's letter. We suggested there were many persons – psychologists, social workers, nurses, school or college or university officials, therapists, employers, family members, the faith community or others – who could confirm that a person is transgender, or is living publicly in the gender that is consistent with the change they are requesting on their birth registration.

It is the social presentation of one's felt gender, rather than a particular physical or sexual feature, genetic makeup or medical history that is at issue when considering a change to the sex designation on a document.

We also commented that:

- ◆ Criteria for people under age 18 should be no more stringent than the criteria for adults
- ◆ Although it would be rare, people should be allowed to change the sex designation on their birth registration more than once
- ◆ We need to question whether a sex designation on a "wallet" birth certificate is needed at all, and consider removing it or including it in a coded form in the certificate number, instead of being printed on the face of the document.

In Fall 2012, MGS adopted new criteria, which reflected several of our recommendations. In the new system, people need to provide a note from a practicing doctor or psychologist (including a psychological associate) stating that they have treated or evaluated the person and the change in designation is appropriate. However, MGS did not speak to the age concern – it still requires people to be 18 or older before they can change the designation, stating they need to further consult on this point.

We will continue to work with our partners and monitor MGS's progress.

[T]rans people have been around since the beginning of time. We've been going to washrooms, we've been running races and competing in society and living in society... [M]y identity as Susan and as a trans woman, that's really mostly all you need to know about me... My physician and I, my therapist and I and a few close friends know what's going on inside of me. That's where my boundaries are.



– Susan Gapka, former Chair, Trans Lobby Group



A half-century of human rights

June 15, 2012 was the 50th anniversary of Ontario's *Human Rights Code* – the first such code in Canada. To mark this important event, we worked with partners across Ontario to look back at how human rights had progressed over the 50 years, and to look ahead to the human rights of tomorrow. Highlights include a commemorative plaque and the "proclamation project" with municipalities across Ontario.

Proclaimed in 1962, the first *Code* prohibited discrimination in signs, services, facilities, public accommodation, employment and trade union membership because of race, creed, colour, nationality, ancestry and place of origin. In the following half-century, many communities and individuals advocated and fought to have more prohibited grounds of discrimination added, such as sex, age, disability and sexual orientation, gender identity and gender expression. Systemic discrimination is also included now.

I am both a psychologist and a lawyer. In the early 1960s when I told the Deans of both the Psychology Department and the Law School that I was planning to apply, their response was: "Why would we want to waste a graduate school position on a woman – you will just get married, have babies and stay home?" or "Why do you want to go to Law School – you would be the only woman?" or "Even if we accepted you – no one would give you a job – except possibly to make coffee in the back room."

– Barbara Landau, Co-Chair, Canadian Association of Jews and Muslims

Putting it on a plaque

The OHRC worked with the Ontario Heritage Trust to create a commemorative plaque, which was unveiled at a special celebration at Hart House, University of Toronto on June 15. Featured speakers included human rights visionaries such as Bromley Armstrong, Alan Borovoy, the Hon. Jean Augustine and Tom Symons. The plaque will be erected outside of the Whitney Block at Queen's Park, between the Premier's Office and the Cabinet Office.



Left to right: Human rights pioneers Alan Borovoy, Ruth Luck and Bromley Armstrong.

Now a landlord cannot say this openly, that a human resource person cannot say this openly, because what happened after that point, one was always questioning as to whether it was my fault, whether it was – that individual was allowed to say, "I don't give you this job because of who you are," because it was quite clear when she said I was not the right fit that she was really saying that my race, my colour, my gender I'm not too sure, but was not in keeping with that organization's plan.

– Hon. Jean Augustine, Ontario Fairness Commissioner



We looked back, and then looked forward

We continued the celebration at a day-long event in October 2012, again with the Ontario Heritage Trust. Several hundred people looked at human rights history with panel discussions on where we need to go "for the next 50 years." The day, which also featured an exhibit hall for community organizations to share their human rights work, provided interaction between the "seasoned veterans" and the next generation of human rights leaders.



Left to right: Lali Mohammed, Aidan Johnson, Vanessa Ling Yu and Mark V. Campbell discuss human rights from the next generation's perspective.

Well the lack of information that these young people are getting to know, it's – it's something like psychic torture. When you don't know about people that could be your heroes, you look at the people that are on TV that you now emulate, and those are the people that you really shouldn't be emulating.

– Delorean Klien, Marketing Coordinator, Ontario Black History Society



The proclamation project

Municipalities often play a critical role in nurturing human rights and creating equitable environments where everyone is included in work and services, and can enjoy the benefits of their community. That's why we invited every municipality in Ontario to proclaim June 11 – 15 as Ontario Human Rights Code Week, or June 15 as Ontario Human Rights Code Day. Proclaiming the day or the week gave them an opportunity to encourage all residents to think about how far we have come in 50 years, and where we still need to go.

The response was overwhelming, with more than 80 municipalities proclaiming either the day or week. Several municipalities also discussed the anniversary at council meetings.

"Municipalities provide direct services that affect people's lives in their homes and communities, so they are often the first level of government to see barriers or discrimination," said OHRC Chief Commissioner Barbara Hall. "By marking this anniversary, they all celebrate the important role they have played along this historic road."



Municipalities from across Ontario joined in the celebration by issuing proclamations.

So we really were trailblazers in Toronto. You know, we pushed the provincial government which then forced the federal government. And at a lower level, we've been able to influence the way that we look after the elders in our community and make sure that they don't have to go back into the closet when they need help, when they need housing. They're safe and they're vibrant.



– Kyle Rae, Principal of PQR Solutions

Only in Canada? Looking at “Canadian experience” requirements

We have long heard accounts from newcomers to Canada of how the requirement to have “Canadian experience” is a barrier to their entry into the workforce, and to receiving accreditation from professional regulatory bodies. In October 2012, we launched an online survey asking job seekers and employers to describe how “Canadian experience” requirements in the Ontario job market have affected them.

The survey targeted newcomers to Canada over the last 10 years who have looked for jobs in Ontario since their arrival, and employers or human resources representatives who use “Canadian experience” as a job requirement.

We sent the survey to over 260 community and professional organizations in Ontario that work with newcomers, and 276 organizations with access to networks of employers (such as chambers of

commerce, business sector organizations, and small business and business development associations). We also used print, electronic and social media to spread the word.

We were surprised when almost 1,000 people, including more than 130 employers, shared their thoughts with us. No valid statistics can be gleaned from an open-ended, voluntary survey but we can assume that many people filling out the survey did so because they had faced the “Canadian experience” barrier. We can draw one important conclusion – the sheer volume of responses confirms that discrimination based on a lack of “Canadian experience” is a serious problem for many newcomers.

The stories we heard will be incorporated into a new *Policy on removing the “Canadian experience” barrier*, which will be released in July 2013.

So, wherever we went to look for work, we were asked for Canadian work experience and we were told, you know, “You can’t get a job because you have [no] Canadian work experience.” And then you say, well how can I get Canadian work experience so I can get a job, you know. It’s the proverbial chicken/egg story ... In the beginning you think it’s just the way things are in Canada. And the message that you get from prospective employers sometimes is shaded and sometimes it’s very reasonably put forward. But over time, you begin to realize that ... [it] has very little to do with the question of competence. It has everything to do with communications competencies ... And it’s a very personal experience when someone tells you ... you’re not qualified for a job. It’s a very personal rejection, especially when you know you can actually do the job.

– Ratna Omidvar, President, Maytree



Racial profiling: 10 years later

In 2003, the OHRC released its landmark report, *Paying the price: the human cost of racial profiling*. This report told the stories of individuals and communities that experienced the harmful effects of racial profiling by the police, by educators and by other people in authority. People spoke about being stopped for "driving while Black," being pushed towards athletics instead of academics in school and, in the case of some Asian Canadian students, being suspected of cheating because they excelled in English instead of math.

The report also highlighted the unique context, experiences and negative impact of racial profiling on Aboriginal communities.

When the report came out, there was outrage and heated denials that racial profiling existed. Today, many police services, educators and other authorities acknowledge that profiling exists, and are taking steps to eliminate it.

Over the past decade, the OHRC has worked with police services, school boards, the Ministry of Education and other key players to find and remove the barriers caused by racism and racial profiling. But the problem is still there. Examples in the past year include the HRTO cases of Rawle Maynard and

Chad Aiken, and the controversy of "carding" by the Toronto Police Service (see details below).

Ending racial profiling and racism continues to be a priority for the OHRC, and will be the focus later this year when the OHRC reports on where we are today, 10 years after *Paying the price* caused such a storm.

Rawle Maynard awarded \$40,000

In June 2012, the HRTO awarded Rawle Maynard \$40,000 in a racial profiling case involving the Toronto Police Service. Mr. Maynard, who is Black, was driving home from his office in November 2005, when he was followed by an officer in a police car. Mr. Maynard was later put, at gunpoint, in the back of a police car. The police officer had received a report of an incident involving a Black man with a gun at the Malvern Town Centre. Once new information over the radio indicated Mr. Maynard was not a suspect, he was released.

The African Canadian Legal Clinic represented Mr. Maynard at the HRTO, while the OHRC, which handled the original complaint, continued as a party in the case. We sought both individual and public

I've had a few experiences. When I was about 10 years old, I grew up near the Guild. So I was coming from a friend's house and the police came around and they started asking me questions about, "Have you been near the railroad tracks?" And they started asking me, "Where did you just come from?" and all these questions that really had nothing to do with me because I still had my backpack on 'cause I just came from school.

— Delorean Klien, Marketing Coordinator, Ontario Black History Society



interest remedies, including bringing the HRTO decision, and the circumstances of this complaint, to the attention of the Toronto Police Service's Charter project work to consider related policy changes. This three-year project, which involved adding a human rights lens to all facets of the Toronto Police Service, has now been completed and is being evaluated.

In her decision, HRTO Vice-Chair Leslie Reaume said that Mr. Maynard had been "stereotyped as a person with some probability of being involved in a gun-related incident" because he was a young Black man:

I do not believe that if the suspect had been a Caucasian man in the same circumstance, with no other defining characteristics, particularly age... [that the officer]... would have chosen to investigate the first Caucasian man he saw driving the same car at the same intersection. It is consistent with a finding of racial profiling that all black men, or all black men of a certain age, driving along in the area in a black car were possible suspects at the moment that Officer Baker decided to commence his investigation of Mr. Maynard.

Aiken settlement requires race-based data collection

An April 2012 settlement between the Ottawa Police Services Board (OPSB) and the OHRC set the stage for the Ottawa Police Service (OPS) to collect race-based data on traffic stops by OPS officers. This settlement followed a human rights

complaint by Ottawa resident Chad Aiken. In 2005, Mr. Aiken was pulled over by OPS officers while driving his mother's Mercedes-Benz. In a complaint against the police, Mr. Aiken alleged he had been stopped because he was African Canadian. He was 18 at the time of the incident.

The parties reached a partial settlement in the summer of 2010. This 2012 settlement focuses on using data collection on traffic stops as a way to help provide bias-free police services. The OPSB and the OHRC have agreed the data will be used in a way that respects Ontario's *Human Rights Code*. The settlement requires the OPS to collect data for at least two years, starting within 12 months. At the end of two years, the OPS will share the collected information with the OHRC. The OHRC will analyze the data and may make recommendations.

Collecting race-based data about police stops is recognized around the world as one of the major tools available to help police services address allegations of racial profiling, and is an important step forward in Ontario. People in every community need to feel confident in their police services. Collecting data can help police operate in an open way that can help earn the trust of the communities they serve.

The OHRC and the OPSB agreed that data collection will be important to help address concerns and perceptions in minority communities. The settlement requires significant consultation with affected communities.

There have been so many complaints surrounding minority, visible minorities and the cops. There have been problems with the police. The perception is – and one doesn't have to completely resolve the dimensions of the problem in order to be satisfied that it's important to address this perception, because that perception makes for an unhappy community, makes for frustrated, troubled people.

– Alan Borovoy, former General Counsel, Canadian Civil Liberties Association



Concerns about carding

Not all data collection is appropriate. Over the past year, reports in the Toronto Star have sparked community concerns about the Toronto Police Service practice of filling out "contact cards" after interactions with members of the community. The statistics showed that the police were filling out cards, which stay in police records, for Black people (young men especially) in numbers far greater than the proportion of Black people among Toronto residents. This led the Toronto Police Services Board (TPSB) to direct police to collect and analyze data from contact cards, and to look at the pattern of contact between the police and members of the community in general, including young people from certain racialized communities.

Collecting and analyzing human rights-based data for a Code-consistent purpose itself does not violate the Code. But there are human rights issues that must be considered. In March 2013, Chief Commissioner Barbara Hall wrote to the TPSB to support their closer look at contact cards – and to remind them of their human rights obligations while doing so.

There are perceptions in the community that race is being used in a discriminatory way in carding. We will continue to offer guidance to the Toronto Police Service and the TPSB as they move forward with this data collection initiative.

During the time that I was on the [Toronto] Police Board, it was very interesting the amount of public response and resistance to what I had to say because frankly, I was saying what had always been said and written by academics, criminologists who knew lot more than I did about the process of policing. I just said those things out loud.

And it struck me after the fact that why was there such a resistance? It seemed to me that anybody sitting in this position saying these things would get the same kind of reaction. Somebody else suggested, and I wonder if it was true, that the fact that I was Chinese and female saying these things made it far worse for the people that didn't like what I had to say.



— Susan Eng, Vice President of Advocacy, CARP



Windsor Police Project reaches two-year milestone

As Ontario's communities change and grow, the organizations that serve them must also adapt to meet new needs. In recent years the OHRC has developed a human rights organizational change approach, to help organizations eliminate bias and discrimination, be more inclusive, and fully respect and accommodate the dignity, worth and rights of all people.

In March 2013, the OHRC joined the Windsor Police Service (WPS), the Windsor Police Services Board (WPSB) and the Ontario Police College (OPC) to mark the second anniversary of our work together. In this three-year project, launched in February 2011, the four organizations are aiming to identify, eliminate and prevent any possible discrimination in the Windsor Police Service, as an employer and in the services it provides.

The partners have been looking at existing policies and programs and developing strategies to address any existing or potential human rights concerns.

Highlights for Year 2 include:

- ◆ Conducting a 2012 WPS Workplace Census
- ◆ A Police Ethnic and Cultural Education program for culturally diverse youth, to foster an interest in policing careers

- ◆ A Human Rights Directive review checklist to check for human rights elements and make sure that all directives comply with the Ontario Human Rights Code
- ◆ Community Consultation sessions in January and May 2012 on policing and human rights
- ◆ Setting up a telephone interpretation service in over 200 languages
- ◆ Making greater use of website and social media platforms to promote multi-language communications and commitment to human rights and diversity initiatives
- ◆ Hiring a student Workplace Facility Assessor to conduct an accessibility audit of Windsor Police Service HQ
- ◆ Developing a new Human Rights and Accommodation policy and procedure
- ◆ Holding training sessions on basic human rights, accommodation, policy review and inclusive design for Project Charter members.

I think it's important to acknowledge in this work, in human rights work there are no champagne moments ... Here, if you can have a cheer and what I mean by that is a small win, that's fantastic. And the reason I say that is because I know the work we do here, little by little, we crumble the barriers, the stereotypes, the barricades that not only individuals, but society has up. And I always say, and this true for any workplace, we are a microcosm of society and because we were that, societal expectations are part of the organizational expectations.



– Andre Goh, Manager, Diversity Management Unit, Toronto Police Service



Organizational change in Correctional Services – the MCSCS Human Rights Project Charter

In last year's annual report, we provided a status report on the first year of the three-year Human Rights Project Charter between the three project partners – the Ministry of Community Safety and Correctional Services (MCSCS), the Ministry of Government Services (MGS) and the OHRC. This work resulted from the settlement of a long-standing human rights complaint by Michael McKinnon against MCSCS. Its purpose is to support MCSCS' human rights organizational change initiatives, and to make sure the change process addresses public interest concerns.

We've made excellent progress in the past year

Since July 2012, the project partners have worked intensively on the project. Four subcommittees were established to work in the areas of employment and client services:

- ◆ Accountability of all staff for upholding human rights obligations
- ◆ Recruitment, selection, promotion and retention
- ◆ Learning
- ◆ Complaint management

These subcommittees have each met for roughly 10 – 12 full days, have identified human rights gaps, barriers and opportunities, and are proposing recommendations and initiatives to address these change objectives.

Because of the project's special focus on the needs and concerns of Aboriginal employees and clients, an Aboriginal Advisory Subcommittee (AAS) was also established. The AAS has met several times. Its

members sit on the other subcommittees and bring to the discussions a focus on the needs and concerns of Aboriginal Peoples. The AAS has provided input into all of the other subcommittees' recommendations, and is developing a strategic plan for MCSCS' Aboriginal employees' and clients' human rights.

Each subcommittee includes 15 – 20 members with a broad range of roles and experience in the Ministry, including front-line staff and managers. MGS and the OHRC also take part in all subcommittees. All members were trained on human rights before subcommittees met, and were given background information about the project at their initial meeting. Members' strong commitment to human rights and their diversity of experiences and perspectives have been extremely helpful in identifying the human rights strengths, gaps, barriers and opportunities in Correctional Services, and proposing workable solutions.

In addition, a Client Working Group has been established, and includes representatives from community agencies. Its role is to enhance understanding of Ministry clients' human rights concerns.

An External Advisory Group (EAG) has also been set up and includes external expertise in Aboriginal issues, human rights and organizational change. The EAG will provide valuable advice to the Project Sponsors.

The Evaluation Working Group is developing an evaluation plan for the project to assess and measure how well the project meets its objectives, and how effective the subcommittees' initiatives and recommendations are.

Recurring themes

Members have raised many themes in subcommittee discussions, including:

- ◆ Some parts of the Ministry are much better than others at ensuring human rights.
- ◆ Much work on human rights has been done in the Ministry, but it has not always led to long-term, systemic or broad-based human rights improvements.
- ◆ Aspects of the Ministry's organizational culture (including an informal "code of silence") can make it very hard for people to raise and/or respond to human rights issues.
- ◆ Aboriginal employees are often in relatively small numbers in correctional institutions, experience barriers to inclusion, and can be particularly vulnerable to harassment.
- ◆ Some staff have received much human rights training and some have received none. Much of the training has focused on workplace discrimination and harassment, and in particular, complaint processes.
- ◆ Awareness levels of human rights vary within the Ministry. People are more aware of employees' human rights than they are of the human rights of Ministry clients.
- ◆ "Human rights" has a negative connotation for many in the Ministry, because it is linked closely to complaint processes.
- ◆ While a human rights lens is applied in some areas of the Ministry's work, it is not systematically applied to all policies, practices and training courses.
- ◆ The demographic makeup of Ministry staff does not fully reflect the diversity of the population of the province or the clients that the Ministry serves, particularly at management levels, despite several strategies in recent years to improve recruitment, selection, promotion and retention.

Next steps

Recommendations made by the subcommittees are being refined, and will be reviewed and approved during the summer of 2013. Implementation of recommended initiatives is scheduled to start in the fall and continue beyond August 2014, the scheduled end date of the project.

More work will be done to identify human rights concerns of MCSCS clients, and to develop initiatives to address the concerns.

Focus areas for the OHRC

MCSCS (Correctional Services) is responsible for its own change process in this project, and for its own compliance with the Code. However, the OHRC will continue to provide expertise and advice to influence the change. As the Ministry begins implementation over the final scheduled year of the project, the OHRC will work with project partners and committees to focus on several areas that make it as likely as possible that the project will spur significant, lasting change:

- ◆ Making human rights organizational change in MCSCS sustainable over the long term, and making sure that long-term resources and expertise are in place to support the change
- ◆ Strengthening accountability for human rights performance:
 - At an individual level, so that all managers and employees know what is expected of them with respect to human rights of employees and clients, and are consistently held accountable for meeting those expectations
 - At an organizational level, so that the Ministry implements policies, practices and procedures that consistently support human rights of employees and clients; has clear measures of success for human rights organizational change; regularly and effectively evaluates its human rights performance; and acts to correct weaknesses

- ◆ Building a strong partnership with bargaining agents to promote and maintain an organization where respect for the human rights of employees and Ministry clients flourishes
- ◆ Removing barriers to the human rights of Aboriginal employees and clients, and implementing strategies to make sure those rights are respected
- ◆ Implementing effective strategies to combat poisoned work and service environments, as well as the organizational culture that allows them to continue
- ◆ Making sure that all Ministry management and employees regularly learn about how to apply human rights in their jobs and their workplace relationships, and that they are consistently supported and expected to put that learning into practice
- ◆ Strengthening focus and action on the human rights of Ministry clients, so that the dignity of Code-identified clients is respected, their accommodation needs are met, and their needs for responsive services are addressed
- ◆ Working with the MGS, one of the project partners, to support and facilitate MCSCS' efforts to improve human rights performance in systemic areas such as human resources policies and practices (for example, recruitment and selection, preventing workplace discrimination and harassment), data collection, and other steps to address and remedy discriminatory barriers.

We look forward to continuing to work effectively with MCSCS and MGS, and maintaining the project's momentum towards lasting human rights organizational change.

[If] the respondents ... refused to play ball, then [Daniel Hill] would convene a board of inquiry, public hearing of the complaint. And Dan handled that with particular flair. He would go around the community in which the act of discrimination occurred and he would recruit people to come out and watch the hearing so that when we went to a public hearing, the place would be mobbed.

And there's nothing like the experience for one who discriminates to try to defend their policies in a hearing room filled with members of the very minority group against whom he had discriminated. It was a salutary experience for these guys. And one after the other, they would cave in immediately, before a hearing, immediately after a hearing, and sometimes right in the middle of a hearing.



– Alan Borovoy, former General Counsel, Canadian Civil Liberties Association



Opening courtrooms to Khalsa Sikhs

Part of our work with police and security services is raising awareness of the need to accommodate different groups. As a result of our involvement of in one case, Sikhs who wish to enter a Toronto courthouse wearing a kirpan (stylized representation of a sword) now face fewer barriers according to a May 2012 settlement with the Toronto Police Service (TPS), the Toronto Police Services Board and the Ministry of the Attorney General.

Two complaints led to this settlement. The OHRC was involved in one involving a woman on a mandatory class trip to the Victim/Witness Assistance Program at the courthouse in Old City Hall. Court officers denied her entry when she refused to remove her kirpan. She explained that a Sikh cannot unsheath a kirpan or be separated from it. The court officers insisted on examining the kirpan and decided that it was prohibited. She felt that her only option was to leave.

The second case involved a man who was summoned for jury duty at the University Avenue courthouse. He informed the police officer that he was wearing a kirpan and was permitted to enter. After lunch, when he tried to re-enter the courthouse, he was denied entry and provided with a written statement that stated "jury member carrying a kirpan excused. Advised zero tolerance."

The TPS agreed to revise its procedures to ensure that practicing members of the Sikh faith will be allowed to wear kirpans in public areas of courthouses, subject to an individualized risk assessment. The TPS will also seek input from the World Sikh Organization of Canada and the OHRC on training for its court officers dealing with the duty to accommodate Sikhs wearing the kirpan, under the Code ground of creed.

If a person wearing a kirpan wants to enter a Toronto courthouse, they must take the following steps:

- ◆ Upon arrival, inform the court officer they are a Khalsa Sikh wearing a kirpan
- ◆ Be willing to show they are wearing all articles of the Sikh faith, if requested
- ◆ The total length of the kirpan, including the sheath, may not exceed 7.5 inches with a blade of not more than 4 inches
- ◆ The kirpan must be worn under clothing and not be easily accessible and must remain so throughout the courthouse attendance.

The Ministry of the Attorney General's Court Services Division will also work with the TPS to identify the best way to have security screenings at each Toronto courthouse.

"This accommodation procedure is an important step in recognizing the needs of Khalsa Sikhs and making Toronto courthouses accessible to them," said Balpreet Singh, counsel with the World Sikh Organization of Canada.

"The Toronto Police Service is pleased to have worked cooperatively to arrive at a procedure which recognizes the needs and rights of the Sikh community and the obligation to provide a safe, secure and accessible courthouse environment," said Acting Deputy Chief Jeff McGuire.

Updating our understanding of creed

As Canadian society becomes increasingly diverse, there is potential for tension and conflict as creed issues play out more and more in the public sphere. Should religious organizations be allowed to have a say on the sex lives and life choices of their employees? Are veganism, ethical humanism or pacifism creeds? Can a school tell a student he or she can't bring a same-sex partner to the prom?

These are just a few of the questions the OHRC is looking at as we work on updating our policy on creed. This project involves wide consultation with faith leaders, diverse community members, academics, and human rights lawyers and practitioners. We will also offer opportunities for members of the general public to share their ideas with us through online surveys, interviews, focus groups and other meetings.

Overall, the project will take 2 – 3 years to complete, and we hope it will provide answers to some of the pressing questions that relate to creed, like:

- ◆ What obligations do employers have to accommodate religious holidays for non-Christian staff? Do they have to give staff paid days off or ask them to use vacation days?
- ◆ What obligations do hospitals have to meet patients' food requirements because of their religion?
- ◆ How much can co-workers talk about their faith while at work before it violates other people's rights?
- ◆ How does a person know if their comments on religion in the workplace, or when providing a service, have crossed a line and become harassment?
- ◆ Can prayers be held within public schools during school hours?
- ◆ Where does the duty to accommodate creed beliefs and practices in public space begin and end?
- ◆ Should the definition of creed, itself, be updated and, if so, how?

In January 2012, the OHRC invited academic, legal and community partners to submit short papers for discussion at a policy dialogue session in partnership with the University of Toronto's Religion in the Public Sphere Initiative and Faculty of Law. Presenters were also invited to submit longer versions of their papers, to expand on the key points they wished to make in the discussion on creed.

Later in 2012, in partnership with York University and Irwin Law Inc, we published the articles. They offer many insights on human rights, creed, freedom of religion and the law, and take varied positions based on different perspectives. These articles serve as a starting point as we move forward to craft a new creed policy that reflects the changing needs and realities of today's Ontarians.

The next step is to broaden the consultation. We are finalizing a research and consultation paper to help guide the discussion and will launch an online survey later in 2013.

My father was a Holocaust survivor... And my mom, who was a small town Ontario fundamentalist Christian, for whatever reasons, had a very innate sense of justice. And she couldn't understand many of the notions that her – even some of her family members had about race and inclusion. And she married my father, which of course at the time was fairly radical. And my father also along with his mother suffered terribly the impact of being a hidden child and losing their entire family.

– Wendy Cukier, Vice President, Research and Innovation, Ryerson University



Aboriginal issues: from human rights to Truth and Reconciliation

Aboriginal human rights issues must be addressed in Ontario. The OHRC is seeking input from members of the Aboriginal community on human rights issues of concern. For example, our Aboriginal Steering Committee is building relationships and knowledge to expand our work.

We are proud of our partnership with the Truth and Reconciliation Commission of Canada (TRC). The TRC was established as a result of the 2007 Indian Residential Schools Settlement Agreement. Its mandate is to inform all Canadians about what happened in the 150-year history of the residential schools, and to guide and inspire a process of reconciliation based on mutual understanding and respect. In 2012, Barbara Hall was named an Honorary Witness to the TRC, and we worked together on some key events.

In June 2012, Barbara Hall and Commissioners Maggie Wenté and Larry McDermott hosted a session at "The Meeting Place," a two-day intergenerational regional gathering. This event, hosted by a cooperative of Aboriginal and supporting organizations, was designed to "promote respect,

education and engagement on the Indian Residential School System."

In a session on "Human rights in Ontario: From Rights to Reconciliation," we provided information about the *Human Rights Code*, Ontario's human rights system, and how the OHRC can play a role in reconciliation. We also asked people to continue the conversation with us, by letting us know other ways that we could support reconciliation and respect for the Aboriginal Peoples in Ontario.

In August 2012, the OHRC partnered with the TRC to present "Shared Perspectives, An Evening of Reconciliation" as part of the Planet IndigenUS Festival at Harbourfront Centre in Toronto. This evening featured TRC Chair Justice Murray Sinclair, performances by dancers and drummers from the Aboriginal and Black communities, and an authors' dialogue between writer-storytellers Itah Sadu and Richard Wagamese, moderated by broadcast journalist Shelagh Rogers.

This event widened the reconciliation conversation between Aboriginal communities and other racialized Canadian communities.

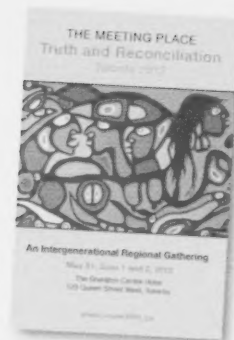


Photo by Priscilla Gaudin
Barbara Hall took part in discussions on human rights issues affecting First Nations people at the Union of Ontario Indians head office on Nipissing First Nation near North Bay. From left to right: Melvin McLeod, Human Resources Manager, Nipissing First Nation; Barbara Hall; Maurice Switzer, Director of Communications, Union of Ontario Indians; Nancy Potvin, Program Manager, North Bay Indian Friendship Centre; and Fred Bellefeuille, Legal Department Director, Union of Ontario Indians.

The group is seen with the Covenant Chain Wampum Belt exchanged with the British at the Treaty of Niagara Congress in July, 1764. In accepting the Wampum, many presents and promises by the Crown in Canada, Indigenous peoples around the Great Lakes accepted the terms of the 1763 Royal Proclamation, which recognized them as Nations – peoples with inherent rights. These rights are specifically mentioned in Section 35 of the Constitution of Canada.

Changing the focus from disability to ability

As disability is the leading ground cited in human rights complaints, the OHRC continues its work to bring systemic change for persons with disabilities across Ontario. We will only have succeeded when everyone can use their abilities, instead of falling behind because of disabilities. Our actions in the past year ranged from critiquing government regulations to intervening at the Supreme Court of Canada and educating employers, service providers and the public.

A better Building Code

As part of its work to implement the *Accessibility for Ontarians with Disabilities Act (AODA)*, the Government of Ontario is proposing amendments to the barrier-free requirements of the Ontario Building Code regulation. Changes affect such areas as renovations, paths of travel, vertical access, adaptable design and construction, visual fire alarms, washrooms, and use of educational materials and resources.

Over the years, each new edition of the Building Code regulation has advanced accessibility, and

this draft version continues that trend. In its March 2013 submission to the Ministry of Municipal Affairs and Housing on the proposed changes, the OHRC included some ongoing concerns, along with some recommendations to further advance accessibility.

Recommendation highlights included:

- ◆ There should be at least some time-specific 'retrofit' requirements such as restaurant chains phasing in accessible washrooms on a barrier-free path of travel from the main entrance. Current and proposed accessibility requirements only come into effect when the obligated organization decides to undergo new construction, extensive renovation or change-in-use of a building or one area of a building
- ◆ The proposed increase in proportion from 10% to 15% of accessible suites in multi-residential buildings may be inadequate, and requires further review
- ◆ Visual fire alarms and visual emergency notification systems should be required wherever a fire alarm or emergency notification system is required.

Disabled people are confronted every day by huge systemic barriers. They're things that had they been thought about at the time when the system of communication or the building or the employment systems were put in place, would not have cost any significant amount to address. But because no thought was given to the inclusion of persons with disabilities at the planning stage, suddenly you're in a situation where the only way into a building is up a flight of stairs or going in the loading dock in the back with the garbage bins and so on.



— David Baker, Senior Partner, Bakerlaw

Improving accessibility out of doors

In October 2012, we wrote to the Ministry of Community and Social Services to comment on proposed changes to the Integrated Accessibility Standards (IASR) under the *Accessibility for Ontarians with Disabilities Act* (AODA).

These changes include amending existing standards and introducing new built environment standards for designing outdoor public spaces (such as recreation trails, beach access routes, stairs, curb ramps, pedestrian signals, play spaces, parking, service counters, etc.).

We saw some significant gaps and limitations, and made recommendations such as:

- ◆ Apply the standards to small organizations
- ◆ Shorten the timelines for meeting the requirements, and start the requirements much sooner so that no new barriers are created
- ◆ The standards should set out a direct obligation to maintain accessibility features in working order and provide information on disruptions
- ◆ Provide accessible slopes and ramps for changes in elevation
- ◆ Add high colour contrast text, and solid characters and text and font standards to sign requirements, and have these requirements also apply to electronic signs
- ◆ Add a direct requirement to provide curb cuts and depressed curbs where appropriate
- ◆ Include employee facilities and other specialty vehicle parking in the standards
- ◆ Do not limit requests for accessible education and library resources to students.

Making elections more accessible

Physical barriers too often prevent people from voting and having a say and a role in their government. For several years, the OHRC has called for changes to make Ontario's electoral process more accessible for people with disabilities. We continued this work in 2012 by meeting with Elections Ontario and providing advice as they look at alternative voting methods involving internet and telephone voting.

In a December submission, we wrote in support of these forms of accessible voting as well as the eight electoral principles Elections Ontario identified: accessibility, one vote per voter, vote authentication and authorization, only count votes from valid voters, individual verifiability, voter privacy, results validation and service availability.

The electoral principle of "accessibility" recognizes that persons with disabilities should be able to vote without assistance. This principle should also include the human rights principles of inclusive design, respect for dignity and accommodation of individual need. Inclusive design means the ideal goal should be that as many people as possible, with and without disabilities, can use the same voting technology and procedures (on-site or remotely), recognizing that some people with disabilities may still need a different accommodation.

We also discussed how the other electoral principles have implications for people with disabilities. For example, voting mechanisms and procedures must allow voters with disabilities to verify their vote selection themselves in privacy. Persons with disabilities should also have access to the same service availability and convenience as others voters. They should be able to vote using accessible equipment on voting day, not just at advance polls. Ideally, persons with disabilities would be able to use remote voting technology on voting day as well.

Other recommendations to Elections Ontario included:

- ◆ Changing provisions of the *Election Act* to allow use of on-site accessible voting equipment on polling day, not just in the advance poll period
- ◆ Maximizing inclusion and accessibility for proving identity (for example, procedures that rely only on a paper-based postal registration process can cause barriers for persons with vision loss, learning and other types of disabilities)
- ◆ Designing the website interface for internet voting inclusively and to meet international website accessibility standards
- ◆ Piloting remote voting technology as soon as possible, ideally in the next by-election
- ◆ Conducting a post-pilot survey of electors with and without disabilities, to learn about their experiences and any barriers they faced using the alternative technology
- ◆ To reduce the time for putting more accessible technologies in place, removing the restriction on piloting alternative methods only in by-elections, and instead using selected ridings during regular elections
- ◆ Resolving the longstanding accessibility barriers that electors, nomination seekers and candidates with disabilities face at all stages of our electoral process (examples are inaccessible facilities, meetings, debates and information during nomination and campaign periods).

The OHRC will continue to provide advice and encourage a more accessible electoral process for Ontarians with disabilities.

Overcoming economic barriers: *Garrie v. Janus Joan et. al.*

People with disabilities face serious economic barriers as well. The OHRC intervened in a case where the Human Rights Tribunal of Ontario was asked to

reconsider a decision not to award a woman wages. This case involved a woman with an intellectual disability, who had worked alongside employees without this disability, doing the same job. The difference – they were paid minimum wage, while she was paid \$1/hour. The HRTTO ruled that the woman's termination was discrimination because of disability, but it could not consider lost wages because it did not see this as a continuing act of discrimination. Reconsideration was granted, and a decision is pending on the alleged wage discrimination.

A meaningful education for all: *Moore v. British Columbia (Education)*

This case at the Supreme Court of Canada involved a student who alleged discrimination in education services because he was not given appropriate accommodation for his severe dyslexia. We intervened to argue that the area of "services" in human rights codes should be given a broad interpretation and that to prove discrimination, people who need accommodation because of a disability do not have to show they were treated worse than people with other disability needs.

In its November 2012 decision, the Court adopted our arguments and found that Jeffrey Moore was entitled to meaningful access to the same education all students are entitled to. To prove discrimination, he did not have to compare his accommodation with that of other students with disabilities, but instead compare to the services received by all students. The Court confirmed the duty to accommodate to the point of undue hardship. It found that Jeffrey Moore was not given enough accommodation to allow him equal access to the education system. Without having considered the alternatives for managing its finances while still providing accommodation for students with disabilities, the school board was not able to show that this failure was justified. We are working with people with disabilities to use this decision to advance inclusive education.

Working together: free online training on AODA requirements

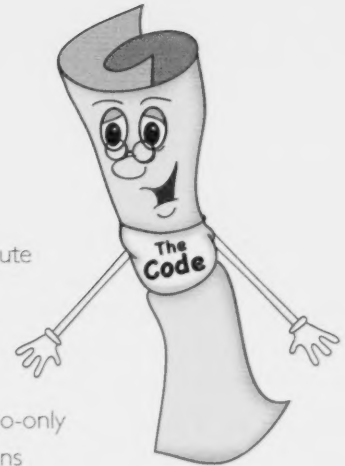
The *Accessibility for Ontarians with Disabilities Act* (the AODA) requires every employer and employee in Ontario to take training on the AODA and the *Ontario Human Rights Code* in the next couple of years.

To assist them, in early 2013 we partnered with the Accessibility Directorate of Ontario to create a video program. *Working together: the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act* takes an animated look at the law. It includes sections on:

- ◆ the Code
- ◆ understanding the duty to accommodate
- ◆ applying human rights principles
- ◆ compliance and enforcement

Features of the 20-minute program include:

- ◆ a video available in Flash and HTML
- ◆ print, transcript, audio-only and ASL/SLQ versions
- ◆ a quiz to test your learning



The program is for all Ontario Public Service employees, and is just a click away for anyone who wants this training. *Working together* is available on the OHRC website at www.ohrc.on.ca/en/learning/working-together-ontario-human-rights-code-and-accessibility-ontarians-disabilities-act.

Moving forward with e-learning

Over the past year, we have continued to release our e-learning programs in multiple languages, adding Vietnamese and Portuguese to English, French, Arabic, Spanish, Italian and Korean. We continue to improve our HR 101 module, and are working on new modules that will offer an overview of key human rights issues:

- ◆ Duty to accommodate
- ◆ Disability accommodation

- ◆ Competing human rights claims
- ◆ Removing the "Canadian experience" barrier.

Completing Human Rights 101 is often ordered as a public interest remedy by the HRTO. People are getting the human rights education they need, with the click of a mouse.

In search of a home

The OHRC continued to work to eliminate discrimination in housing. As in previous years, we worked with some municipalities, challenged others, sent our housing message across Ontario through public education sessions and speeches by the Chief Commissioner, and called on the Ministry of Municipal Affairs and Housing to expand a human rights focus in Ministry policy guidelines. We also took a closer look at rental housing licensing through public interest inquiries.

Commenting on the "blueprint" for municipalities

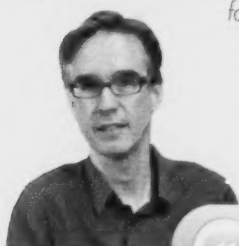
Every five years, Ontario's Ministry of Municipal Affairs and Housing (MMAH) updates its Provincial Policy Statement (PPS) on land use planning. The PPS outlines expectations and provides guidance for municipalities on the *Planning Act*. This review is currently underway.

The PPS is the blueprint for municipalities to follow. Adding a human rights lens can lead to significant systemic improvements – before any discrimination can happen.

In November 2012, the OHRC commented for the second time on this review. We were pleased to see proposed amendments in the PPS that respond to our original comments, along with other amendments that advance human rights protections. Positive changes include:

- ◆ Recognizing the importance of consulting with Aboriginal communities on planning matters that may affect their rights and interests
- ◆ Including "affordable housing" as part of the mix that sustains healthy, liveable and safe communities
- ◆ Continuing to recognize the need to improve accessibility for persons with disabilities
- ◆ Stating that planning authorities should consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources
- ◆ Implementing the PPS in a way that recognizes and affirms existing Aboriginal and treaty rights
- ◆ Redefining "built heritage resources" and "cultural heritage landscape" to recognize that such features may be valued by Aboriginal communities.

Some of the key barriers that we see when people call us trying to find housing are landlords' stereotypes about people who are low income and receiving social assistance ... Families with children and particularly families, larger families with children, have a very difficult time accessing housing. Either they have too many kids for the apartment or the landlord is concerned about the noise their children will make and won't rent to them.



– John Fraser, former Executive Director, Centre for Equality Rights in Accommodation



While these are positive changes, we noted significant gaps in the PPS. The PPS still lacks overall recognition of human rights and recognition that land use planning can result in discrimination against many groups protected under the Code who, historically and on an ongoing basis, face discrimination as well as socio-economic disadvantage.

As well, the PPS does not provide enough direction to address human rights matters found in land use planning and related litigation. The OHRC has been challenging discriminatory land use planning involving discriminatory neighbourhood opposition (also called NIMBYism); bylaws requiring minimum separation distances between group homes, lodging houses or other housing; and other forms of "people zoning" including restrictions on methadone health clinics or student housing that exclude groups because of disability, age and other Code grounds.

While the OHRC continues to be actively involved in cases with municipalities at the Human Rights Tribunal of Ontario and the Ontario Municipal Board, using legal forums is not our first choice to overcome discriminatory planning and zoning bylaws. By the time a case goes to a tribunal or court, the damage to the people wanting to live in a neighbourhood or community is already done. Instead, our goal is to prevent the damage from happening in the first place.

Making the connection between human rights and planning is a relatively new concept for many municipalities. So reflecting human rights requirements in the place municipalities look first – the PPS – is vital.

Over the past year, we worked to put *In the zone*, our guide to human rights and municipal planning, into the hands of municipalities, planners and advocates. This guide offers municipalities information about their legal obligations and best practices they can apply when making zoning and planning decisions.

It also shows municipalities how to further human rights by using tools that they already have to support and increase affordable housing, such as those set out in the Ministry's handbook, *Municipal Tools for Affordable Housing*. The Ministry handbook complements *In the zone*, but it would be even more valuable if it also outlined municipalities' human rights obligations.

Our detailed recommendation on the PPS can be found on our website at <http://www.ohrc.on.ca/en/mmah-provincial-policy-statement-review-land-use-planning-ohrc-submission>

Promoting and protecting human rights are a key part of building strong communities, a clean and healthy environment and a strong economy. We hope for a new PPS that incorporates human rights goals, so that the Province of Ontario works with us to advance the housing – and human – rights of all Ontarians.

Looking at Toronto zoning

We continued our intervention in an HRTO case, where the Dream Team, a group of people living with mental health issues, is challenging the City of Toronto's minimum separation distance requirements for group homes.

To reinforce this, we commented on the City's new amalgamated zoning bylaw several times, including in a deputation to the City's Planning and Growth Management Committee. We are concerned that both the old and the new bylaws fall short of both the Code and the City's own Housing Charter, because they:

- ◆ Retain a requirement for minimum separation distances between group homes
- ◆ Do not allow rooming houses in most parts of Toronto.

Dr. Sandeep K. Agrawal, the city's planning expert, looked at some of the human rights issues the OHRC has raised from a planning perspective. His recommendations mirrored the position the OHRC and community groups have taken – that there is no sound planning rationale for minimum separation distances (MSDs) for group homes, and that they should be removed.

Dr. Agrawal also looked at whether removing MSDs would cause undue hardship, which is sometimes used as a defence against discrimination claims. He concluded that removing the MSD requirement for group homes would not cause undue hardship – and in fact would reduce the hardship that already exists in the City's planning process.

We continue to tackle this issue. While the City has stated it will review these issues in a report in October 2013, these restrictions have an ongoing real and significant negative impact on many Code-protected groups – delay is furthering the harm. We will continue our involvement at the HRTO, and advocate for change now, not later.

Lynwood Charlton – stop excluding people with mental health issues

When the City of Hamilton refused Lynwood Charlton Centre's request to move its housing for eight teenage girls with mental health issues, the OHRC intervened in an appeal of the decision at the Ontario Municipal Board (OMB). We requested party status to the OMB, primarily because we believe applying a 300-metre "radial separation distance" between group homes is discriminatory "people zoning" under the *Human Rights Code* and under the *Planning Act*.

The OHRC has consistently opposed arbitrary separation distances that often restrict housing options for vulnerable people across Ontario. We view them as systemic barriers that should be removed.

In an October 2012 decision, the OMB granted us party status. The hearing began in March 2013, and we are awaiting an interim decision on planning issues before proceeding to the "human rights" part of the hearing.

In recent research that CERA did, we looked at the prevalence of discrimination against people who have an identifiable mental health disability and found out that ... of all the profiles that we were testing for ... they were the most likely to experience discrimination.

– John Fraser, former Executive Director, Centre for Equality Rights in Accommodation



Rental housing licensing inquiries

Rental housing licensing is a fairly new concept – only since 2007 have municipalities had the authority to license and regulate various forms of rental housing. Several municipalities, especially those that are home to colleges and universities, have adopted or are considering rental housing licensing bylaws.

The OHRC has contacted several municipalities on these bylaws, including Oshawa, North Bay, Waterloo and Windsor. We have raised concerns about minimum separation distances, bedroom caps, gross floor area requirements, applying bylaws only in parts of a municipality and other issues that appear to target certain Code-protected groups or result in differential treatment of these groups.

In March 2012, we launched public interest inquiries into the rental housing licensing bylaws in North Bay and Waterloo. These inquiries allowed us to take a closer look at licensing practices and identify possible discriminatory effects on Code-protected groups, find possible solutions, and suggest ways municipalities can draft licensing bylaws that respect and protect the human rights of tenants.

In the past year, we hosted online surveys for tenants, landlords, community groups, advocates and service providers in North Bay and Waterloo, did follow-up interviews with some of the people who responded, and met with student groups in North Bay. We also reviewed documents that each city relied on when developing the bylaws. The process involved regular communication with staff in both cities.

We have completed draft reports and sent them to the cities for comment before releasing them to the public. They will be released in May 2013, along with a new guide on human rights and rental housing licensing. It will feature promising practices to follow – and steps to avoid – so rental housing licensing respects human rights, with features from a number of municipalities including North Bay and Waterloo.

Mental health and addiction – stereotypes and discrimination



Learning the details of the *Minds that matter* report at Ryerson University, Toronto.

"There is still a stigma to mental health in the workplace. As a 40-year employee I have spent more energy hiding this disorder than I have in advancing my career."

"Twenty years of no work is too much when I was able to work the whole time."

"My husband called an ambulance to take me to the hospital; he was concerned for my welfare and couldn't drive me himself. I went willingly. Now I have an "apprehended under the *Mental Health Act*" on my vulnerable sector screening, with no further explanation... my depression almost five years ago in no way makes me a danger to vulnerable clients."

"The message should be, if you're in management, 'how can I help you be successful in the job that you're hired for?' and to use that mindset, as opposed to 'how can I protect you from overwork?'"

"I find sometimes that mental health services can be very specific – if you do not fit in the category for what you need help with, then you fall through their cracks and lose the help you need."

A surgeon said, "Had I known you were crazy, I wouldn't have operated on you."

"I worked in emergency services (as a paramedic) and they are very degrading towards mentally ill people. At lunch they would talk about having to go pick up another 'crazy' or 'junkie' and these are the people on the front line."

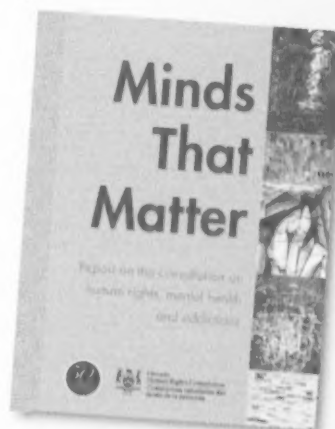
"The school board said mental health is not their concern, right after another special needs boy killed himself last year."

"I think because I don't have a visible disability many people think I'm faking it. It's so much work to fight for my accommodations that I usually end up dropping the course and that puts me even farther behind in school."

"I once had a Children's Aid Society worker tell me, 'But you're bipolar. How can you parent?' This same worker admitted she did not believe parents with mental illness could parent."

"I was desperate for a doctor and when I filled out the form she said that she did not accept patients who have a mental illness. I had to beg her and promise I would just come for a yearly physical to get my birth control pills."

These are just some of the personal accounts included in *Minds that matter*, the OHRC's report on its consultation on human rights, mental health and addictions. Released



in September 2012, it outlines what the OHRC heard in its largest-ever policy consultation across Ontario – we received over 1,500 verbal and written submissions – and sets out key recommendations and OHRC commitments to address human rights issues that affect people with mental health disabilities or addictions.

We heard about widespread discrimination in housing, employment and services. People told us that stereotypes and negative societal perceptions are embedded in institutional policies and practices, individual attitudes and legislation.

We found that many organizations may not understand how to meet their responsibilities under the *Human Rights Code* to prevent and respond to this discrimination. At the same time, many people with mental health or addiction issues were not aware of how the *Code* protects them from discrimination under the ground of disability. We also heard that people have difficulty enforcing these rights.

Societal factors can create the conditions for discrimination and exclusion. Poverty is a real barrier. People with mental health issues or addictions are much more likely to have low incomes than people with other disabilities or without disabilities. This affects access to housing, services and job opportunities.

The report was written to reflect the experiences and perspectives of hundreds of people with mental health or addiction disabilities, as well as those of employers, housing and service providers, advocates and other groups. Overcoming discriminatory barriers requires the concerted efforts of law-makers, policy makers, and public and private institutions.

Minds that matter contains 54 recommendations for government and organizations across Ontario. For example, municipalities should review their zoning and housing licensing bylaws to make sure they do not treat housing for people with mental health issues or addictions any differently than other types of housing. We asked the Government of Ontario to fulfill its obligations under the United Nations' *Convention on the Rights of Persons with Disabilities*.

The report also makes 26 commitments to guide the OHRC's activities. We will create a policy on human rights, mental health and addictions to give steps people and organizations across Ontario can take to prevent and eliminate existing barriers. We will also invite a psychiatric institution, and partners with human rights expertise in mental health, including consumer/survivor organizations, to take part in a large-scale organizational change process to address any human rights concerns in the way services are delivered.

We thank our launch partners

Several organizations helped us launch *Minds that matter* across Ontario. Each played an important part in helping us share what we heard about human rights, mental health and addictions. Thanks go to:

- Ryerson University, Toronto
- City of Ottawa
- University of Ottawa
- University of Windsor
- North Bay Indian Friendship Centre.

Combining addiction and municipal zoning issues

One of our commitments in *Minds that matter* was to look at municipal zoning practices and advocate for change when there was potential for discrimination. While much of this work involves housing, we are also researching zoning rules related to health clinics dispensing methadone. And where we see discrimination, we are advising those municipalities.

We are researching discrimination relating to methadone health services, and have already spoken to several municipalities, including London, Northeastern Manitoulin and the Islands and Tillsonburg. Here are two examples.

Closing the clinic: Northeastern Manitoulin and the Islands

In December 2012, the Town of Northeastern Manitoulin and the Islands directed a pharmacy to stop dispensing methadone at its clinic, as it had received complaints about clinic clients. It alleged the clinic created a public nuisance and danger to health. The clinic closed in February 2013.

We advised the Town that it had to use a human rights lens whenever it changes its commercial and residential zoning bylaws. It did not appear to do so in this case. Limiting the places health clinics, including methadone dispensing clinics, can locate could be a human rights violation.

We did not believe the Town had made sufficient attempts to accommodate health clinic clients to the point of undue hardship. Methadone clients are a highly stigmatized group, and behaviours are often attributed to them based on stereotypes about addictions. Other bylaws could have been used to address the concerns raised, without stigmatizing all recipients of the clinic's services.

The OHRC works with individuals and communities throughout the province to end discrimination and to break down barriers that vulnerable groups face. One such barrier is "people zoning." We advised the Town that it cannot discriminate against people with addictions. If amendments to the official plan or bylaw target or have an adverse impact on people with addictions, those amendments are illegal unless they were adopted in good faith and are necessary to accomplish a legitimate planning purpose.

As well, we advised that at any public meetings about potential zoning amendments, it is important to avoid using or allowing the use of stereotypes about people who use methadone, such as their being undesirable, prone to criminal behaviour, or not part of the community.

We continue to monitor this situation carefully. The concerns we outlined are the same messages we often send in our work in housing – but the need to meet obligations under the Code is equally critical to bring down the barriers many people with addictions face.

Tillsonburg: use a human rights lens, ask the right questions

In June 2012, we wrote to the Town of Tillsonburg to comment on its interim control provisions that prohibit establishing new methadone clinics and dispensaries for one year, while they complete a planning study on regulating this issue.

We outlined some human rights principles that may affect the Town's planning study and decision. These included:

- ◆ The legal requirement to not discriminate against people with addictions
- ◆ Regulations that target or have an adverse impact on people with addictions are illegal unless they were adopted in good faith and are necessary to accomplish a legitimate planning purpose
- ◆ The Town must make all possible efforts, to the point of undue hardship, to accommodate the needs of people with addictions
- ◆ The Town must not "people zone," which is illegal under the *Code* and also under the *Planning Act*.

This is the law – but it also makes good sense. While mental health disabilities are common in our communities, people with mental health disabilities (including addictions) face many barriers, both individual and institutional, that prevent them from fully taking part in society. Discrimination can compound the effects of living with addiction disabilities by making it harder to seek treatment, triggering or making worse mental health disabilities and addictions, and making it harder to recover by limiting available supports.

We were also concerned that the Town might consider regulating health clinics dispensing methadone differently than standard clinics and pharmacies – even though they are all providing healthcare services. We encouraged the Town to consider:

- ◆ Is this more restrictive regulation based on any discriminatory views about clients, instead of on legitimate planning purposes?
- ◆ In what ways might the regulation of methadone clinics and pharmacies limit the availability of methadone services to people with addictions?

We encouraged the Town to:

- ◆ Include references to the *Code* in any amended form of the Official Plan and in any regulatory bylaws
- ◆ Make sure that people with addictions who rely on methadone receive uninterrupted and convenient access to the health services they need
- ◆ Make sure that public meetings and discussions do not discriminate or subject *Code*-protected groups to unwarranted scrutiny or personal attack
- ◆ Carefully examine the goals of any potential regulations, and make sure they relate to planning issues and cannot better be met through other regulatory tools.

Reaching out across Ontario

The past year has been a busy one as the OHRC expanded its public education and outreach activities. Our challenge is to connect with people and organizations across Ontario, and update them on what's happening in human rights. This included leading 55 public education events. Highlights included:

- ◆ Competing rights in school settings – York Region District School Board
- ◆ Human rights in mental health services – Schizophrenia Society of Ontario
- ◆ Human rights and policing – Owen Sound Police Service
- ◆ Human rights for investigators – College of Physicians and Surgeons
- ◆ HR 101 for immigrants – Ontario Council of Agencies Serving Immigrants
- ◆ Bone fide occupational requirements – Ontario Public Service Employees Union
- ◆ Sessions for organizations across Ontario on our *Minds that matter* report and our *Policy on competing human rights*.

Training was only one part of our outreach work. OHRC staff also did a wide variety of consultations and work with organizations of all sizes. Examples of this ongoing everyday work in 2012-2013 included:

- ◆ Providing input into rental housing licensing bylaw development in various Ontario municipalities
- ◆ Offering advice on how to respect human rights when conducting public planning meetings
- ◆ Advising the City of Hamilton about *Human Rights Code* obligations when looking at changes to transit fare policies and the impact on riders with disabilities
- ◆ Outreach in Thunder Bay about issues of concern to Aboriginal/First Nations Peoples in the region

- ◆ Providing advice to a community health clinic to help them get accommodation for their client to ensure uninterrupted methadone treatment
- ◆ Providing advice and resources to employers about inappropriate questions on employment application forms, resulting in changes to forms
- ◆ Advising unrepresented transgender people about where to go for legal help with human rights complaints
- ◆ Advising several municipalities about the connection between human rights and methadone clinics
- ◆ Providing input to the Canadian Human Rights Commission (CHRC) for its submission to the UN Human Rights Council for Canada's 2013 Universal Periodic Review (UPR)
- ◆ Meeting with the UN Special Rapporteur on the Right to Food, and discussing intersections with disability, social assistance and our litigation on the special diet allowance cases
- ◆ Serving on a committee to advise the Law Commission of Ontario on its Framework for the Law as It Affects Persons with Disabilities, released in September 2012
- ◆ Meeting with a delegation from the Beijing Disabled Persons Federation, to talk about Ontario human rights law protections for people with disabilities, and accessibility requirements.

Again this year, the Chief Commissioner met or spoke with more than 100 communities and groups across Ontario, an important part of advancing human rights. She made more than 50 speeches or presentations. Some highlights:

- ◆ Beyond Canadian Experience, Toronto
- ◆ "Meeting the Challenge: Accommodation and Inclusion" for Community Living Ontario and Inclusive Education Canada, Toronto

- ◆ *Minds that matter* launches, North Bay, Toronto, Ottawa, Windsor
- ◆ Policy on competing human rights launches, Aylmer, Ottawa, Windsor, North Bay, Toronto
- ◆ Courtice Secondary School, Courtice
- ◆ Law Commission of Ontario Symposium: "Into the future, benefitting from the past," Toronto
- ◆ Windsor Pride Annual General Meeting, Windsor
- ◆ *In the zone: Housing, human rights and municipal planning*, Midland
- ◆ Metropolis 2013 conference, "Policing, Justice and Security in a Diverse World," Ottawa
- ◆ Kitty Lundy Memorial Lecture, Toronto, "Minds that matter: human rights, mental health and addictions"
- ◆ Rotary Club North Bay Nipissing, "Human rights – a community responsibility."
- ◆ Standing Committee on Social Policy on Bill 33, Toby's Act (Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression).

Honouring our CCMARD commitment – Taking it local

The OHRC is a key player in the Canadian Coalition of Municipalities Against Racism and Discrimination (CCMARD), a collective of municipalities that have each made a commitment to take action against racism and discrimination. We have made a commitment to provide training on human rights in locations across the province. Our most recent training day took place in February in partnership with the City of Ottawa.

This event, *Taking it local: A municipal update on human rights*, offered a municipal view on current human rights developments. It included plenary sessions on the *Policy on competing human rights* and on *Minds that matter: Report on the consultation on human rights, mental health and addictions*.

The day also included sessions on:

- ◆ Disability and accommodation
- ◆ Creed, freedom of religion and human rights
- ◆ Anti-racism and anti-discrimination for municipalities
- ◆ Preventing sexual and gender-based harassment.

It provided municipal politicians and staff, as well as community organizations from Eastern Ontario a forum to learn more about what communities can do to become more welcoming to and inclusive of everyone, and to network and identify other ways to advance human rights.



Photo by Doug Glynn, The Free Press, Midland

Left to right: Barbara Hall, Midland Mayor Gord McKay and OHRC inquiry analyst Jacquelin Pegg talk about human rights and municipal planning at a session hosted by the Town of Midland.

Chief Commissioner Barbara Hall also made submissions to legislative committees, including:

- ◆ Ontario Legislative Standing Committee on Social Policy on Bill 13, An Act to amend the Education Act with respect to bullying and other matters and Bill 14, An Act to designate Bullying Awareness and Prevention Week in Schools and to provide for bullying prevention curricula, policies and administrative accountability in schools

Playing our part on Canada's stage

Although the OHRC's jurisdiction is limited to Ontario, we have a clear interest in human rights developments across the country. The OHRC is an active member of the Canadian Association of Statutory Human Rights Agencies (CASHRA). Chief Commissioner Barbara Hall served as President of the association for the past three years. Through CASHRA, commissions share best practices and new developments, and also speak with one voice on human rights matters that affect all Canadians. In the past year, CASHRA spoke on several important issues.

Putting rights into practice

In July 2012, CASHRA called on all levels of government across Canada to implement the *UN Declaration on the Rights of Indigenous Peoples*. The *Declaration* is a positive document that maps out a path for Indigenous peoples to be free from discrimination and secure in their identities and life choices. It recognizes the fundamental rights of Indigenous peoples around the world, and outlines minimum standards for their survival, dignity and well-being.

While Canada formally endorsed the *Declaration* in November 2010, some provinces and territories have not followed suit. CASHRA is calling on these provinces and territories to formally endorse the *Declaration*, and help Canada as a whole to move forward in resolving the issues that continue to cause hardship for many Aboriginal Peoples today.

Aboriginal women's issues – calling for government action

According to Statistics Canada, Aboriginal women in Canada are seven times more likely to be murdered than non-Aboriginal women. The Native Women's Association of Canada reports that over the past 30 years, an alarming number of Aboriginal women and girls have gone missing or been found murdered in communities across Canada. Most of these cases remain unsolved.

To mark International Women's Day on March 8, 2013, CASHRA released a motion addressed to the Government of Canada to deal with this problem. CASHRA called for the Government to work with Aboriginal Peoples' organizations to develop and implement a national action plan. The plan would focus urgent attention on addressing and preventing the root causes of violence against Aboriginal women and girls, including poverty and systemic discrimination. It further called on the Government to establish an independent and inclusive inquiry into missing and murdered Aboriginal women and girls in Canada.

Eliminating racial discrimination

On March 21, 2013, CASHRA commemorated the International Day for the Elimination of Racial Discrimination by issuing a series of press releases highlighting activities from each agency relating to eliminating racism. The OHRC release included links to videos on racism produced for its Living Rights Project.

The OHRC is an active member of CASHRA working groups which together with Aboriginal communities and disabled persons' groups are working to advance the United Nations' *Declaration on the Rights of Indigenous Peoples* (UNDRIP) and the UN *Convention on the Rights of People with Disabilities* (CRPD).

I remember ... the principal of the school, said to me, you want too much. Don't you think it's wonderful that you're here and you're not living in Africa, and that you're not suffering the way some of those African children are? And I was appalled and went home and, of course, discussed this with my parents and father said that's sheer ignorance. They know nothing about Africa. They know nothing about the contributions and he, you know, he spurred me on to do more.



– Zanana Akande, educator, former provincial cabinet minister



Growing benefits from growing social networks

In the past year our social media networks continued to grow steadily and helped us to:

- ◆ Spot and track emerging issues
- ◆ Build and maintain relationships with people in communities throughout Ontario
- ◆ Share information about what we do and connect with people doing related work.

As of March 31, 2013 we had more than 2,500 Twitter Followers and 1,200 Facebook Fans. We also had more than 12,000 views on our YouTube Channel. Thousands of people visit our website every day for information on human rights.

Last year, we used Twitter and Facebook to share information about our current activities including launches (*Minds that matter*, *Policy on competing human rights*), events, Chief Commissioner speeches and public education sessions.

Social media was also an important tool for spreading the message about online surveys (including Canadian experience and rental housing licensing), and for telling our contacts when important HRTO decisions came out.

Our social media channels are not just one-way communication – they are an excellent forum to answer questions about human rights and the human rights system in Ontario, and point people to relevant information on our website or to other websites that could help. We used social media to provide links to resources, and have human rights-related conversations on topics like mental health, housing, and discrimination in employment.

We also used social media to connect with “mainstream” media. An example was our “back and forth” with Emma@thespec when Lynwood Charlton hearing was underway at the Ontario Municipal Board.

Here are some highlights of our 2012-13 social media activities:

- ◆ We live-tweeted the 50th anniversary event from Hart House in October 2012
- ◆ There was quite a bit of activity on Twitter celebrating the Code’s 50th anniversary
- ◆ Extensive Twitter activity when gender identity and gender expression were added to the Code
- ◆ We took part in our first live Tweet chat with the Ottawa Police Service (OPS). In this online consultation, the OPS and OHRC joined Dr. Lorne Foster, Dr. Lesley Jacobs and Dr. Bobby Siu from York University to talk with the community about race-based data collection at traffic stops.

In another highlight, our OHRC social media expert presented a session at the 2012 CASHRA conference in Winnipeg, Manitoba. The session focused on using social media to identify issues, build relationships and reach out to communities.

Follow us!



www.facebook.com/the.ohrc



[@OntHumanRights](https://twitter.com/OntHumanRights)

Sending our message to the media

A key role of the OHRC is to speak out and take steps to alleviate tension and conflict in communities. Much of this tension first comes to light in media reports. The press also provide an excellent forum for us to speak out on issues affecting all Ontarians. Highlights in the past year include:

♦ **National Post – “Human rights commissions have had their day” (March 6, 2013)**

In this letter to the editor, we refuted an editorial that suggested that “racism, sexism and homophobia have become rare in Canadian public life.” We commented that this was clearly not the experience of young Black men or Aboriginal people, or of women who are fired when they get pregnant or of LGBT youth bullied at school. We also spoke about how more than half of all complaints at the HRTO involve discrimination in the workplace against people with disabilities, both physical and mental.

♦ **Thompson Citizen – “Racist and anti-Aboriginal slurs” (February 1, 2013)**

In this letter to the editor, we congratulated the Citizen for closing its Facebook page because of

a shocking increase in online hatred directed at Aboriginal Peoples. We said their actions help send a strong message that providing a forum for hateful and racist speech is not the way forward, and thanked them for saying no to racism.

♦ **Globe and Mail – “The right to balanced rights” (February 28, 2013)**

In this opinion editorial, we talked about the recent *N.S.* and *Whatcott* cases at the Supreme Court of Canada, and about our new policy that can help to balance competing rights. We talked about how resolving conflicting rights is easier to do through cooperation, and by having open-minded dialogue.

♦ **Toronto Sun – “White liberal guilt” (May 24, 2012)**

In this letter to the editor, we refuted columnist Tarek Fatah’s suggestion that Barbara Hall or anyone else “forced” Toronto Police to allow Khalsa Sikhs to wear kirpans in courtrooms. The settlement here arose from working cooperatively with the Toronto Police Service to balance the religious rights of Khalsa Sikhs and the need to have security at courthouses.

So many people would unthinkingly go to hotels in the South that wouldn't treat Blacks by the same standards as they treated Whites. And I remember I had somebody write a letter to a whole bunch of Florida hotels, where we knew our readers often went, and asked, “May I bring a Black person with me?” And I published the answers with the names of the hotels. And in case after case, they said yes or no, you may or may not bring your coloured maid. We never said anything about a maid in our letter... And I wound up publishing this stuff. That was one of my earlier projects.



– Alan Borovoy, former General Counsel, Canadian Civil Liberties Association

Stepping into the legal arena

OHRC interventions at the Human Rights Tribunal of Ontario, 2012/13

Creed:

R.C. and S.C. by her next friend R.C. v. District School Board of Niagara
Robert Duncan v. Christian Horizons

Disability and housing:

Dream Team v. Toronto (City)
Dream Team v. Corporation of the City of Kitchener
Dream Team v. Corporation of the City of Smith's Falls
Henley et. al. v. Town of Greater Napanee et. al.

Disability and employment:

Garrie v. Janus Joan Inc. et. al.
Maxwell v. Cooper-Standard Automotive Canada
Michalczyk v. Sudbury Conto Corp. #9
Seberras v. Workplace Safety and Insurance Board

Disability and services:

Aganeh Estate v. Mental Health Care Penetanguishene
Buklis et. al. v. Director of the Ontario Disability Support Program
Clough v. Simcoe District School Board
D.L.T. by his next friend W.T. v. Ontario (Children and Youth Services)

Gender identity:

XY v. Ontario (Government and Consumer Services)

Race and related grounds:

Aiken v. Ottawa Police Services Board
Claybourn v. Toronto Police Service
de Lottinville v. Ontario (Community Safety and Correctional Services)
Ferguson v. Toronto Police Services Board
R.M. v. Toronto Police Services Board
Shallow v. Toronto Police Services Board

Sex and employment:

Farris v. Staubach Ontario Inc.

Sexual orientation and employment:

Morrell v. 2156775 Ontario Inc. o/a D'Angelo Brands

OHRC interventions in cases before courts and tribunals (other than the HRTTO):

Creed, competing rights:

R. v. N.S. (Supreme Court of Canada)

Creed, sexual orientation, competing rights:

Saskatchewan Human Rights Commission v. Whatcott
(Supreme Court of Canada)

Disability:

Moore v. British Columbia (Supreme Court of Canada)
Ontario (Minister of Community and Social Services)
v. Martel (Ontario Divisional Court)

Family status:

Canadian National Railway v. Seeley (Federal Court of Appeal)

Housing:

Lynwood Charlton Centre v. City of Hamilton (Ontario Municipal Board)

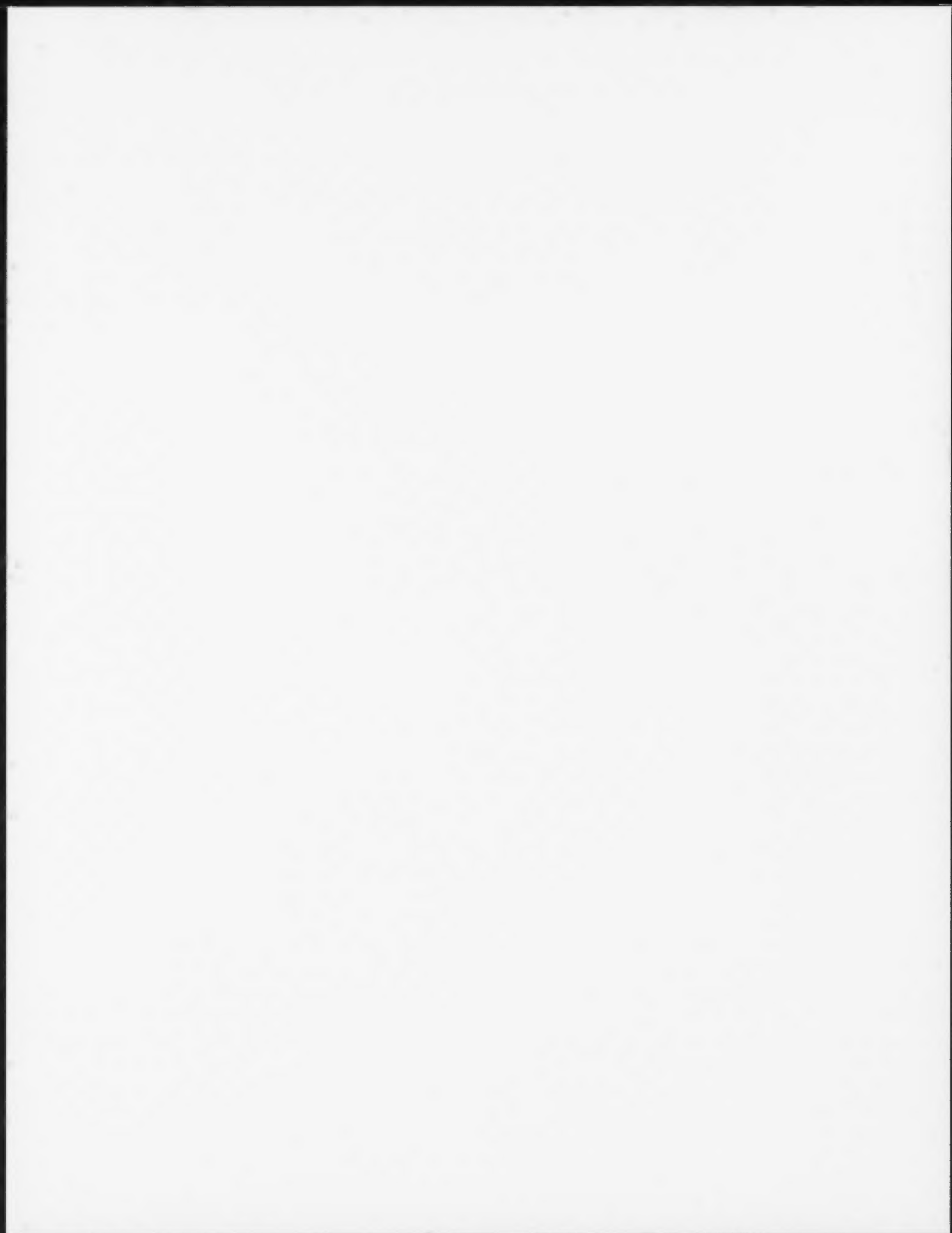
Race:

Peel Law Association et. al. v. Pieters et. al. (Court of Appeal for Ontario)

Financial Position as at March 31, 2013 (\$'000)

| | 2012-2013 Printed Estimates | Revised Budget March 31, 2013 | Actual Expenditures March 31, 2013 | 2012-2013 Year End Variance from Revised Budget | |
|---|-----------------------------------|-------------------------------------|--|--|--------|
| | | | | \$ | % |
| Salaries and Wages | 4,776.7 | 4,387.7 | 4,371.1 | 16.6 | 0.38% |
| Benefits | 351.1 | 531.9 | 551.7 | -19.8 | -3.72% |
| Other Direct Operating Expenses (ODOE) | 689.0 | 841.5 | 815.7 | 25.8 | 3.07% |
| Total Expenses | 5,816.8 | 5,761.1 | 5,738.4 | 22.7 | 0.39% |





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